



MAY 03 2007

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY



07-CV-00411-PET

**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

IN RE PET FOODS PRODUCTS LIABILITY  
LITIGATION

No. MDL DOCKET NO. 1850

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR  
TRANSFER OF ACTIONS TO THE CENTRAL DISTRICT OF CALIFORNIA AND  
FOR CONSOLIDATED OR COORDINATED PRETRIAL PROCEEDINGS PURSUANT  
TO 28 U.S.C. §1407**

Plaintiff Dawn Howe in the Central District of California action, *Howe v. Menu Foods Limited, et al*, No. CV07-02060 GHK (AJWx), plaintiffs Dennis Lee Townsend and Glenna Townsend in the Central District of California action, *Townsend v. Menu Foods Limited, et al*, No. ED CV07-398 GHK (AJWx), plaintiff Alexander Nunez in the District of New Jersey action, *Nunez v. Menu Foods Limited*, No. 07CV1490 (NLH), plaintiff Richard Chamberlain in the Central District Court of California action, *Chamberlain v. Nestle S.A.*, No. CV07-2476 FMG (SSx), and plaintiff Mark Golding in the District of New Jersey action, *Golding v. Menu Foods Limited, et al*, No. 07CV01521 (NLH), (collectively, "Plaintiffs"), respectfully move the Panel for an Order pursuant to 28 U.S.C. §1407 to transfer the pending cases identified in the schedule of actions filed concurrently, as well as any cases subsequently filed involving similar facts or claims, to the United States District Court for the Central District of California, and to consolidate and coordinate the cases for pretrial proceedings before the Honorable George H. King, to whom the low numbered case is assigned in the Central District of California.

## **I. BACKGROUND**

Defendants Menu Foods and Nestle Purina, as well as other pet food manufacturers, (collectively, the "Pet Food Manufacturers"), produced and sold contaminated dog and cat food which caused serious illness and death to household pets. Many of the pet foods manufactured by the Pet Food Manufacturers and sold by retailers such as Wal-Mart, Petsmart, and Giant, are part of nationwide recalls, which lists continue to grow. *See* Exhibits A-I. The piecemeal, ever-expanding recalls leave concerned pet owners confused and uncertain of which products are safe for their pets to consume.

Plaintiffs brought their respective actions on behalf of all persons in the United States who purchased contaminated dog or cat food manufactured by Menu Foods and/or Nestle Purina, which were recalled or will be recalled. These products caused serious illness or death in many pets, including Plaintiffs' pets.

At least sixty-four cases, to the best of Plaintiffs' knowledge, have been filed against the Pet Food Manufacturers, in both state and federal courts, alleging similar causes of actions and seeking similar relief as Plaintiffs. The related actions all arise from the same or similar nucleus of operative facts as Plaintiffs' cases. Each action will involve substantially similar discovery, with the same or similar documents and witnesses. Discovery has not commenced in Plaintiffs' cases or any of the related actions.

Since these cases require same or similar questions of law and facts to be determined by a court of law, prompt action by the Panel to transfer and consolidate these actions will promote their just and efficient prosecution and judicial economy and serve the convenience of the parties.

## II. ARGUMENT

### A. Transfer And Consolidation Of All Actions Is Appropriate Under 28 U.S.C. §1407

28 U.S.C. §1407 provides for transfer of actions to one district for coordinated or consolidated pretrial proceedings where actions pending in different districts involve one or more common questions of fact. 28 U.S.C. §1407(a). The Panel authorizes consolidation where transfers will promote the convenience of the parties and witnesses, and the just and efficient conduct of the action. *Id.* The purpose of the multidistrict litigation process is to “eliminate the potential for contemporaneous pretrial rulings by coordinate district and appellate courts in multidistrict related civil actions.” *In re Multidistrict Private Civ. Treble Damage Litig.*, 298 F. Supp. 484, 491-92 (J.P.M.L. 1968). Consolidation is especially important in class actions where the “potential for conflicting, disorderly, chaotic” action is greatest. *Id.* at 493. Transfer of related actions to a single district for pretrial proceedings avoids conflicting pretrial discovery and ensures uniform and expeditious treatment in the pretrial procedures. *In re Phenylpropanolamine (PPA) Prods. Liab. Litig.*, 460 F.3d 1217, 1230 (9th Cir. 2006).

Transfer is appropriate here because many common questions of fact and law exist. The cases listed in the schedule of actions (the “Actions”) all arise from the same or similar nucleus of operative facts, and each seeks determination of, among other things:

1. whether the contaminated pet foods manufactured by the Pet Food Manufacturers were materially defective in design and formulation;
2. whether the Pet Food Manufacturers failed to properly test the contaminated pet food products prior to market entry;
3. whether the Pet Food Manufacturers negligently, recklessly, or intentionally delayed initiating recalls of the contaminated pet foods;

4. whether the Pet Food Manufacturers breached their duty of care to Plaintiffs and other Class members;
5. whether the Pet Food Manufacturers breached any contract or warranty, express or implied, relating to their sale of contaminated pet food;
6. whether the contaminated pet food manufactured by the Pet Food Manufacturers caused Plaintiffs' and other Class members' pets to fall ill or die;
7. whether the Pet Food Manufacturers were unjustly enriched as a result of their wrongful conduct;
8. whether Plaintiffs and other Class members are entitled to compensatory damages; and
9. whether Plaintiffs and other Class members are entitled to punitive damages.

Determination of these and other commons issues in a single district will benefit the parties and witnesses, and promote the just and efficient prosecution of the Actions. Without transfer and consolidation of the Actions, the danger of inconsistent rulings exists, and judicial inefficiency, overlapping discovery, and unnecessary expense will certainly result. Transfer and coordination is especially appropriate as formal discovery has not yet commenced in any of the Actions. As such, transfer and consolidation of the Actions to a single district is appropriate for the just and efficient prosecution of the actions and the convenience of the parties and witnesses.

**B. The Central District of California Is The Appropriate Forum For Transfer And Consolidation**

In determining the most appropriate transferee forum, the Panel will consider, among other things, the number of actions pending in the district, the location of witnesses and documents, the stage of pretrial proceedings, whether a related government investigation or action is pending, whether the district is in an accessible metropolitan area, the status of the civil docket, and the experience of the transferee judge in handling multidistrict litigation. *See e.g., In re Educ. Testing Serv. Plt 7-12 Test Scoring Litig.*, 350 F. Supp. 2d 1363, 1365 (J.P.M.L. 2004) (Panel found district appropriate where four of thirteen actions were already pending in the district, the district provided an accessible, metropolitan location, the district had favorable caseload conditions, and the judge had experience managing multidistrict litigation); *In re Wheat Farmers Antitrust Class Action Litig.*, 366 F. Supp. 1087, 1088 (J.P.M.L. 1973) (Panel considered the conveniences of the parties and witnesses, location of relevant documents, stage of pretrial proceedings, and the status of civil dockets); *In re Peruvian Road Litig.*, 380 F. Supp. 796, 798 (J.P.M.L. 1974) (while both districts were appropriate, Panel chose the District of Idaho because of the judge's familiarity with the issues raised by defendants and because of the significantly lighter civil action docket of that court); *In re Tri-State Crematory Litig.*, 206 F. Supp. 2d 1376, 1378 (J.P.M.L. 2002) (in selecting the transferee court, the Panel considered the location of the crematory central to the allegations, the criminal investigation, the likely location of relevant documents, witnesses and other evidence, and where the actions were filed); *In re Foundry Resins Antitrust Litig.*, 342 F. Supp. 2d 1346, 1347 (J.P.M.L. 2004) (Panel considered, among other things, the presence of a government investigation in choosing the transferee district).

Transfer of the Actions to the Central District of California for consolidated pretrial proceedings is appropriate here because transfer will serve the convenience of the parties and promote just and efficient conduct of the Actions. The Central District of California is particularly appropriate because a number of the Actions are currently pending in this district.

Defendant Nestle's U.S. headquarters, as well as manufacturer Nutro Products, Inc., which has been named a defendant in other Actions, are located in this district. Thus, witnesses and documents are likely located in this district as well. Additionally, the Food and Drug Administration, U.S. Department of Agriculture, and California Department of Health Services are conducting investigations into a hog farm confirmed to have received contaminated pet food scraps in California. Consolidation of the Actions in the Central District of California will thus aid in the coordination of efforts likely to occur between the government investigations and the Actions. The Central District of California also provides a metropolitan location, easily accessible to all parties and witnesses, both domestic and foreign.

The Central District of California is also appropriate because of the status of its civil dockets. The median time to disposition in the Central District was 7.2 months last fiscal year, while the District of New Jersey, where some similar Actions have been filed, averaged 8.2 months. See Exhibits J-K. The median time to trial in the Central District of California was 21.3 months, while it took nearly a year longer in the District of New Jersey, at approximately 33.0 months. Because a case is more likely to be expeditiously handled in the Central District of California, transfer of the Actions to the Central District is appropriate.


The Honorable George H. King, to whom the low numbered case, *Sexton v. Menu Foods*, is assigned, has considerable experience managing class actions and complex litigation matters. See, e.g., *In re Nat'l Golf Props. Secs. Litig.*, No.: CV 02-1383-GHK (complex securities class action) and *Dagher v. Saudi Ref., Inc.*, No. CV-99-06114(GHK) (complex anti-trust action). Judge King's twelve years of experience on the bench and reputation for expeditious handling of matters makes the Central District of California as the forum for transfer and consolidation for pretrial proceedings all the more appropriate. On the other hand, the Honorable Noel L. Hillman, to whom the low numbered case in the District of New Jersey is assigned, has been on the bench for less than a year, and thus, does not have the experience and expertise Judge King has amassed over the years in presiding over complex matters such as this one.

### III. CONCLUSION

At least sixty-four cases have been filed against Menu Foods, Nestle Purina, and other pet food manufacturers alleging defendants manufactured and sold contaminated pet food products which caused illness or death in household pets. These Actions all arise out of the same or similar nucleus of operative facts, allege similar claims, and seek similar relief. Without transfer and coordination of the Actions, judicial inefficiency, overlapping discovery, and unnecessary expense will certainly result, and the danger of inconsistent rulings may arise. As such, plaintiffs Howe, the Townsends, Nunez, Chamberlain, and Golding respectfully request transfer and consolidation or coordination of the Actions to the Central District of California, in order to promote just and efficient prosecution of the Actions and serve the convenience of the parties.

DATED: April 27, 2007

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Nunez, Richard Chamberlain, and Mark  
Golding.

**Before the Judicial Panel on Multidistrict Litigation  
MDL-1850 - In re Pet Foods Products Liability Litigation**

**SCHEDULE OF ACTIONS**

<b>Case Captions</b>	<b>Court</b>	<b>Civil Action No.</b>	<b>Judge</b>
<b>Plaintiffs:</b> Kirby Cooper  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Midwest Corporation, Menu Foods South Dakota, Inc., Menu Foods, Inc., Menu Foods Holdings, Inc., and Wal-Mart Stores, Inc.	W.D. Arkansas	4:2007cv04036	Harry F. Barnes
<b>Plaintiffs:</b> Charles Ray Sims and Pamela Sims  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Midwest Corporation, menu Foods South Dakota Inc., Menu Foods, Inc., Menu Foods Holdings, Inc.	W.D. Arkansas	5:2007cv05053	Jimm Larry Hendren
<b>Plaintiffs:</b> Richard Scott and Barbara Widen  <b>Defendants:</b> Menu Foods, Menu Foods Income Fund, Menu Foods Gen Par Limited, Menu Foods Limited Partnership, Menu Foods Operating Partnership, Menu Foods Midwest Corporation, Menu Foods South Dakota; Menu Foods, Inc., Menu Foods Holdings, Inc. and Wal-Mart Stores, Inc.	W.D. Arkansas	5:2007cv05055	Robert T. Dawson



Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Sandra L. Gray, Nick Jackson and Deena Jackson  <b>Defendants:</b> Menu Foods, Menu Foods Income Fund, Menu Foods Gen Par Limited, Menu Foods Limited Partnership, Menu Foods Operating Partnership, Menu Foods Midwest Corporation, Menu Foods South Dakota; Menu Foods, Inc., Menu Foods Holdings, Inc., Wal-Mart Stores, Inc. and Xuzhou Anying Biologic Technology Development Co. Ltd.	W.D. Arkansas	5:2007cv05065	Robert T. Dawson
<b>Plaintiffs:</b> Shirley Sexton  <b>Defendants:</b> Menu Foods Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation, Suzhou Textile Import and Export Company, Xuzhou Anying Biologic Technology Development	C.D. California	2:2007cv01958	George H. King
<b>Plaintiffs:</b> Paul Randall Johnson and Tammy Navarrete  <b>Defendants:</b> Menu Foods Inc., and Menu Foods Income Fund	C.D. California	2:2007cv01987	George H. King
<b>Plaintiffs:</b> Lois Grady and Kaye Steinsapir  <b>Defendants:</b> Foods, Inc., Menu Foods Income Fund, Menu Foods Limited, Menu Foods Midwest Corp., Menu Foods Operating Limited Partnership, Menu Foods, Inc., Nutro Products, and Petco Animal Supplies, Inc.	C.D. California	2:2007cv02253	Dean D. Pregerson

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Kelly Finestone  <b>Defendants:</b> Menu Foods Inc., Petco Animal Supplies Inc., and The IAMS Company	C.D. California	2:2007cv02338	Christina A. Snyder
<b>Plaintiffs:</b> Dawn Howe  <b>Defendants:</b> Menu Foods Limited, Menu Foods Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund, Menu Foods South Dakota, Inc., Menu Foods Holdings, Inc. and Menu Foods Operating Trust	C.D. California	CV 07-2060 GHK (AJWx)	George H. King
<b>Plaintiffs:</b> Dennis Townsend and Glenna Townsend  <b>Defendants:</b> Chemnutra Inc., Menu Foods Holdings Inc., Menu Foods Inc., Menu Foods Income Fund, Menu Foods Limited, Menu Foods Midwest Corporation, Menu Foods South Dakota Inc., Nestle Holdings Inc. Nestle Purina Petcare Co., Nestle SA, Nestle USA Inc.	C.D. California	ED CV 07-398 GHK (AJWx)	George H. King
<b>Plaintiffs:</b> Richard Chamberlain  <b>Defendants:</b> Chemnutra Inc., Nestle Holdings Inc. Nestle Purina Petcare Co., Nestle SA, Nestle USA Inc. and Xuzhou Anying Biologic Technology Development Company Ltd.	C.D. California	2:07-cv-02476- FMC-SS	Florence-Marie Cooper

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Sherry Ingles  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Midwest Corporation, Menu Foods South Dakota Inc., Menu Foods, Inc.,	N.D. California	3:2007cv01809	Maxine M. Chesney
<b>Plaintiffs:</b> Robert Payne and Steve Bartilucci  <b>Defendants:</b> Menu Foods, Inc., The Proctor & Gamble Company, Petco Animal Supplies, Inc., and Safeway, Inc.	S.D. California	3:2007cv00705	John A. Houston
<b>Plaintiffs:</b> Diane Swarberg  <b>Defendants:</b> The Iams Company, and Menu Foods Holding Inc.	S.D. California	3:2007cv00706	Barry Ted Moskowitz
<b>Plaintiffs:</b> Emily Tompkins  <b>Defendants:</b> Menu Foods Midwest Corporation, Menu Foods Income Fund, Menu Foods Limited, Menu Foods Inc., Menu Foods Holdings, Inc., The Proctor & Gamble Company, The Iams Company, Safeway Inc., The Kroger Co., Petco Animal Supplies, Inc., Petco Animal Supplies Stores, Inc.	D. Colorado	1:2007cv00736	John L. Kane
<b>Plaintiffs:</b> Lauri A. Osborne  <b>Defendants:</b> Menu Foods, Inc.	D. Connecticut	3:2007cv00469	Robert N. Chatigny

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Maria Teresa Ferrarese  <b>Defendants:</b> Menu Foods Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund and Menu Foods Limited	M.D. Florida	2:2007cv00235	John E. Steele
<b>Plaintiffs:</b> Satoru Waldhauer  <b>Defendants:</b> Menu Foods Inc., Menu Foods Income Fund and Wal-Mart Corporation	N.D. Florida	3:2007cv00131	M. Casey Rodgers
<b>Plaintiffs:</b> Christina Troiano  <b>Defendants:</b> Menu Foods, Inc. and Menu Foods Income Fund	S.D. Florida	0:2007cv60428	James L. Cohn
<b>Plaintiffs:</b> Stephen Donnelly and Jennifer Hirni  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Holdings, Inc., Menu Foods Midwest Corporation, Chemnutra Inc., Chemnutra LLC, Xuzhou Anying Biologic Technology Development Company Ltd., Suzhou Textile Import and Export Company	S.D. Florida	1:2007cv20955	Joan A. Lenard
<b>Plaintiffs:</b> Larry Klimes, Paul Lavoie and Richard Mueller  <b>Defendants:</b> Menu Foods	D. Idaho	1:2007cv00160	Mikel H. Williams

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Dawn Majerczyk  <b>Defendants:</b> Menu Foods, Inc.	N.D. Illinois	1:2007cv01543	Wayne R. Anderson
<b>Plaintiffs:</b> Mara Brazilian  <b>Defendants:</b> Menu Foods Inc., Menu Foods Income Fund, Menu Foods Limited, Menu Foods Midwest Corporation	D. Maine	2:2007cv00054	George Z. Singal
<b>Plaintiffs:</b> Lidia Rodrigues  <b>Defendants:</b> Menu Foods Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund and Menu Foods Limited	D. Massachusetts	1:2007cv10745	Edward R. Harrington
<b>Plaintiffs:</b> Stephanie Rozman  <b>Defendants:</b> ChemNutra, Inc., Menu Foods Holdings, Inc., Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Limited, Menu Foods Limited, Menu Foods Midwest Corporation, Nutro Products, Inc., PetsMart, Inc., and Petco Animal Supplies Stores, Inc.	D. Minnesota	0:2007cv01808	Ann D. Montgomery
<b>Plaintiffs:</b> Marion Streczyn  <b>Defendants:</b> Menu Foods Income Fund, and Menu Foods, Inc.,	D. Nevada	3:2007cv00159	Larry R. Hicks

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Jared Workman, and Mark and Mona Cohen  <b>Defendants:</b> Menu Foods Limited, Menu Foods Inc., and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01338	Noel L. Hillman
<b>Plaintiffs:</b> Suzanne Thomson and Robert Trautman  <b>Defendants:</b> Menu Foods Income Fund and Menu Foods Inc.	D. New Jersey	1:2007cv01360	Noel L. Hillman
<b>Plaintiffs:</b> Larry Wilson  <b>Defendants:</b> Menu Foods Holdings, Inc., Menu food Income Fund, Menu Foods Midwest Corporation, Menu Foods, Inc., Suzhou Textile Import and Export Company	D. New Jersey	1:2007cv01456	Noel L. Hillman
<b>Plaintiffs:</b> Paul Richard and Jennifer Richard, Charles Kohler and Alicia Kohler  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Limited, Menu Foods Holdings, Inc., Menu Foods, Inc., Menu Foods Midwest Corporation, Menu Foods South Dakota, Inc., ABC Partnerships, XYZ Corporations	D. New Jersey	1:2007cv01457	Noel L. Hillman
<b>Plaintiffs:</b> Linda Tinker  <b>Defendants:</b> Chemnutra, Inc., Menu Foods Income Fund, Menu Foods, Inc.	D. New Jersey	1:2007cv01468	Noel L. Hillman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Janice Bomier, Guy Britton, Tammy Matthews  <b>Defendants:</b> Menu Foods Income Funds, Menu Foods, Inc. and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01477	Noel L. Hillman
<b>Plaintiffs:</b> Julie Hidalgo  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01488	Noel L. Hillman
<b>Plaintiffs:</b> Alexander Nunez  <b>Defendants:</b> Menu Foods Limited, Menu Foods Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund, Menu Foods South Dakota, Inc. and Menu Foods Holdings, Inc.	D. New Jersey	1:2007cv01490	Noel L. Hillman
<b>Plaintiffs:</b> Mark Golding  <b>Defendants:</b> Menu Foods Limited, Menu Foods Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund, Menu Foods South Dakota, Inc. and Menu Foods Holdings, Inc.	D. New Jersey	1:2007cv01521	Noel L. Hillman
<b>Plaintiffs:</b> Troy Gagliardi  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01522	Noel L. Hillman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Kami Turturro  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01523	Noel L. Hillman
<b>Plaintiffs:</b> Peggy Schneider  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Limited and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01533	Noel L. Hillman
<b>Plaintiffs:</b> Leslie Berndt and Jim and Terri Moses  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Funds, and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01553	Noel L. Hillman
<b>Plaintiffs:</b> Jayme Pittsonberger  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund and Menu Foods Limited	D. New Jersey	1:2007cv01561	Noel L. Hillman
<b>Plaintiffs:</b> David Carter  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund and Menu Foods Limited	D. New Jersey	1:2007cv01562	Noel L. Hillman



Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Jim Bullock  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund and Menu Foods Limited	D. New Jersey	1:2007cv01579	Noel L. Hillman
<b>Plaintiffs:</b> Christina Johnson  <b>Defendants:</b> Menu Foods, Inc.	D. New Jersey	1:2007cv01610	Noel L. Hillman
<b>Plaintiffs:</b> James Conner and Frances Nash  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Funds, and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01623	Noel L. Hillman
<b>Plaintiffs:</b> Matt Long  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Limited, Menu Foods Holdings, Inc., Menu Foods, Inc., Menu Foods Midwest Corporation, Chemnutra, Inc.	D. New Jersey	1:2007cv01624	Noel L. Hillman
<b>Plaintiffs:</b> Chantelle Conti and Cheri Cutler  <b>Defendants:</b> Menu Foods Limited, Menu Foods Inc., and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01638	Noel L. Hillman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Steven Freeman  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01646	Noel L. Hillman
<b>Plaintiffs:</b> Karen Pirches and Dinitrisc Hicks  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Midwest Corporation, Menu Foods South Dakota, Inc., Menu Foods, Inc., Menu Food Limited	D. New Jersey	1:2007cv01685	Noel L. Hillman
<b>Plaintiffs:</b> Diana Diedrich  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01700	Noel L. Hillman
<b>Plaintiffs:</b> Todd Sokolwski  <b>Defendants:</b> Menu Foodds, Inc., Menu Foods Income Fund, and The Iams Company	D. New Jersey	1:2007cv01709	Noel L. Hillman
<b>Plaintiffs:</b> Michele McCullough  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods, Inc, Menu Foods Holdings, Inc., and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01710	Noel L. Hillman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Steve Colquitt and Marianna Cutter  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01738	Noel L. Hillman
<b>Plaintiffs:</b> Luke deBarathy  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods, Inc, Menu Foods Holdings, Inc., Menu Foods Midwest Corporation, Xuzhou Anying Biologic Technology Development Company Ltd., Suzhou Textile Import and Export Company	D. New Jersey	1:2007cv01739	Noel L. Hillman
<b>Plaintiffs:</b> Loren and Kay Byers, and Camilla Brankov  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods, Inc., Menu Foods Midwest Corporation, Menu Food Limited, Menu Foods Operating Limited Partnership and Menu Foods South Dakota Corporation	D. New Jersey	1:2007cv01747	Noel L. Hillman
<b>Plaintiffs:</b> Lynne Carestio  <b>Defendants:</b> Menu Foods Limited, Menu Foods, Inc., and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01762	Noel L. Hillman
<b>Plaintiffs:</b> Gregory Boehm  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Genpar Limited (aka Menu Foods Limited) and Menu Foods Income Fund	N.D. Ohio	1:2007cv01018	Peter C. Economus

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Carol Brown  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. Rhode Island	1:2007cv00115	Mary M. Lisi
<b>Plaintiffs:</b> Lizajean Holt, donna Lefebvre, Debra LeRoy and Kim Leonard  <b>Defendants:</b> Menu Foods, Inc.	E.D. Tennessee	3:2007cv00094	Thomas W. Phillips
<b>Plaintiffs:</b> Barbara Light  <b>Defendants:</b> Menu Foods Income Fund	E.D. Tennessee	3:2007cv00098	Thomas W. Phillips
<b>Plaintiffs:</b> Tom Whaley  <b>Defendants:</b> Menu Foods, The Iams Company, Dog Food Producers Numbers 1-50 and Cat Food Producers Numbers 1-50	W.D. Washington	2:2007cv00411	Ricardo S. Martinez
<b>Plaintiffs:</b> Stacey Heller, Toinette Robinson, David Rapp, and Cecily and Terrence Mitchell  <b>Defendants:</b> Menu Foods	W.D. Washington	2:2007cv00453	John C. Coughenour
<b>Plaintiffs:</b> Audrey Kornelius and Barbara Smith  <b>Defendants:</b> Menu Foods	W.D. Washington	2:2007cv00454	Marsh J. Pechman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Suzanne F. Johnson and Craig R. Klemann  <b>Defendants:</b> Menu Foods	W.D. Washington	2:2007cv00455	John C. Coughenour
<b>Plaintiffs:</b> Michele Suggett and Don James  <b>Defendants:</b> Menu Foods, The Iams Company, Eukanuba, Dog Food Producers Numbers 1-50 and Cat Food Producers Numbers 1-50	W.D. Washington	2:2007cv00457	Ricardo S. Martinez

**EXHIBIT “A”**

## PRESS RELEASE

**MENU FOODS INCOME FUND****Menu Foods Income Fund**

TSX:

MEW.UN

[Stock Quote](#)[Stock Chart](#)[Other Recent News](#)**March 16, 2007****Menu Foods Income Fund Announces Precautionary Dog and Cat Food Recall**

TORONTO, ONTARIO--(CCNMatthews - March 16, 2007) -

NOT FOR RELEASE OVER US NEWSWIRE SERVICES

Attention Business/Financial Editors

Menu Foods Income Fund (the "Fund") (TSX:MEW.UN) today announced the precautionary recall of a portion of the dog and cat food it manufactured between December 3, 2006 and March 6, 2007. The recall is limited to "cuts and gravy" style pet food in cans and pouches manufactured at two of the Fund's United States facilities. These products are both manufactured and sold under private-label and are contract-manufactured for some national brands.

Over the past several days, the Fund has received feedback in the United States (none in Canada) raising concerns about pet food manufactured since early December, and its impact on the renal health of the pets consuming the products. Shortly after receipt of the first complaint, the Fund initiated a substantial battery of technical tests, conducted by both internal and external specialists, but has failed to identify any issues with the products in question. The Fund has, however, discovered that timing of the production associated with these complaints, coincides with the introduction of an ingredient from a new supplier. The Fund stopped using this ingredient shortly after this discovery and production since then has been undertaken using ingredients from another source.

At the same time, the Fund's largest customer, for which it manufactures on a contract basis, received a small number of consumer complaints and has initiated its own recall. Furthermore, for the time being, the customer has put future orders for cuts and gravy products on hold. This customer's cuts and gravy purchases in 2006 represented approximately 11% of the Fund's annual revenue.

"We take these complaints very seriously and, while we are still looking for a specific cause, we are acting to err on the side of caution" said Paul K. Henderson, President and CEO, Menu Foods. "We will do whatever is necessary to ensure that our products maintain the very highest quality standards."

While the number of complaints has been relatively small, Menu is taking this proactive step out of an abundance of caution, because the health and well-being of pets is paramount to the Fund.

In addition to changing suppliers, for production after March 6, the Fund has increased testing of all raw materials and finished goods. It is also working closely with regulatory authorities and its customers to learn more and will take whatever additional actions are appropriate. The Fund estimates that based on currently available information, this recall could cost between \$30 million and \$40 million, which will be financed from a combination of internally generated cash flow and bank credit facilities. Furthermore, the Fund is aggressively producing product, utilizing a different supplier for the ingredient in question, to replenish customers as quickly as possible.

In order to determine whether cat and dog food in their possession is subject to recall, consumers should refer to the list of brand names ("listed products") at [www.menufoods.com/recall](http://www.menufoods.com/recall). This will be available by 6 a.m. Saturday March 17, 2007. Products not identified on the website can continue to be used.

Menu is the leading North American private-label/contract manufacturer of wet pet food products sold by supermarket retailers, mass merchandisers, pet specialty retailers and other retail and wholesale outlets. In 2006, the Fund produced more than one billion containers.

**CONTACT INFORMATION**

Menu Foods Income Fund

Menu Foods Income Fund

Consumers

1-866-895-2708

Website: [www.menufoods.com](http://www.menufoods.com)

**EXHIBIT “B”**





PRESS RELEASE

**Menu Foods Income Fund**

TSX: MEW.UN

INDUSTRY: Financial Services - Personal Finance, Retail - Consumer Interest

**MENU FOODS INCOME FUND**

MARCH 24, 2007 - 14:09 ET

**Menu Foods Initiates Market Withdrawal of All Varieties of Recalled Wet Pet Food to Ensure Consumer Protection**

TORONTO, ONTARIO--(CCNMatthews - March 24, 2007) - As a result of reports from the FDA and various media outlets that some recalled lots of "cuts and gravy" style wet pet food remain on store shelves, Menu Foods has asked all retail outlets to immediately remove all impacted varieties of wet pet food posted at [www.menufoods.com](http://www.menufoods.com) , regardless of the date code.

Menu Foods remains concerned that consumers are able to purchase recalled items.

There is no known risk from items not listed on the recall list but an abundance of caution is called for in this situation. FDA has been apprised of this action.

**CONTACT INFORMATION**

## **EXHIBIT “C”**

**All Menu Foods pet food with ChemNutra wheat gluten voluntarily recalled**

TORONTO, April 5 /PRNewswire/ - In response to a news release - issued by ChemNutra Inc. during the evening of April 3, 2007 - Menu Foods today voluntarily expanded its pet food recall for selected "cuts and gravy" pet food products, manufactured back to November 8, 2006.

ChemNutra Inc., a former supplier of wheat gluten to Menu Foods, announced a recall of all wheat gluten it imported from Xuzhou Anying Biologic Technology Development Co. in Wangdian, China. As a result, Menu Foods today announced an expansion of its recall to include all products manufactured with wheat gluten purchased from ChemNutra Inc. which Menu Foods' records show was first used on November 8, 2006 and last used on March 6, 2007.

As a result of actions previously taken by Menu Foods, the vast majority of the products affected by this expansion are already off retailers' shelves. No new brands have been added. A total of 20 varieties have been added to the recall list and the additional varieties are listed below. All Menu Foods products not made with the recalled wheat gluten are safe to consume.

A complete and updated list of recalled products is available at the Menu Foods website at <http://www.menufoods.com>.

**Cat Food**

Brand	Look For This Date The Bottom of Can or Back of Pouch	Variety Description	Can or Pouch	Size	UPC
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**Authority**

Nov/20/09 Nov/21/09	Adult Sliced Chicken/Sauce Formula 3oz	Can	3oz	37257-37359
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**Nutro Max Cat Gourmet Classics**

Nov/21/08 Nov/22/08	Pouch Kitten Chicken/Tomato 3oz	Pouch	3oz	79105-36263
Nov/21/08 Nov/22/08	Pouch Senior Whitefish/Crab 3oz	Pouch	3oz	79105-36265

**Pet Pride**

Nov/21/09 Nov/22/09	Flaked Tuna 3oz	Can	3oz	11110-80472
Nov/20/09	Sliced Chicken/Heart/Liver 3oz	Can	3oz	11110-86261

Nov/21/09				
Nov/20/09	Sliced Turkey/Gravy 3oz	Can	3oz	11110-86257
Nov/21/09				
Nov/20/09	Sliced Beef/Gravy 3oz	Can	3oz	11110-86264
Nov/21/09				

**Sophistacat**

Nov/21/09	Flaked Chicken/Tuna 3oz	Can	3oz	37257-01287
Nov/22/09				
Nov/20/09	Sliced Beef/Gravy 3oz	Can	3oz	37257-01243
Nov/21/09				
Nov/20/09	Sliced Chicken/Heart/Liver 3oz	Can	3oz	37257-01285
Nov/21/09				
Nov/20/09	Sliced Salmon/Chicken 3oz	Can	3oz	37257-01286
Nov/21/09				

**Science Diet Feline Savory Cuts Can (Hill's Pet Nutrition April 5, 2007 Comment on Industry News)**

Jun/19/08	Sliced Beef/Gravy 3oz	Can	3oz	52742-44120
Jun/20/08				
Jun/19/08	Sliced Chicken/Grvy 3oz	Can	3oz	52742-44110
Jun/20/08				
Jun/19/08	Sliced Oceanfish/Sauce 3oz	Can	3oz	52742-44010
Jun/20/08				
Jun/19/08	Sliced Senior Chicken/Gravy 3oz	Can	3oz	52742-46000
Jun/20/08				

**Dog Food**

Brand	Look For This Date The Bottom of Can or Back of Pouch	Variety Description	Can or Pouch	Size	UPC
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**Grreat Choice**

Nov/14/09	London Grill Cuts 13.2oz	Can	13.2oz	37257-37002
Nov/15/09				

**Pet Pride**

Nov/28/08	Pouch Chicken Teriyaki/Gravy 5.3oz	Pouch	5.3oz	11110-84172
Nov/29/08				
Dec/01/08	Pouch With Stew 5.3oz	Pouch	5.3oz	11110-88124

Dec/02/08

**Springfield Prize**

	Chicken Cuts/Gravy			
Nov/14/09	13.2oz	Can	13.2oz	41380-13901
Nov/15/09				

**Stater Brothers**

	Chicken Cuts/Gravy			
Nov/14/09	13.2oz	Can	13.2oz	74175-12240
Nov/15/09				

**EXHIBIT “D”**

**Menu Foods voluntarily recalls additional pet food made with ChemNutra wheat gluten**

TORONTO, April 10 /PRNewswire/ - Prompted by reports from the US Food and Drug Administration as to the presence of melamine in cans of cuts and gravy pet food produced in Menu Foods' Canadian production facility, Menu Foods undertook an accounting of all recalled wheat gluten supplied by ChemNutra Inc. to Menu Foods in the United States.

As the result of that review, Menu Foods has identified a single interplant transfer of the ChemNutra supplied wheat gluten, shipped from Menu Foods' plant in Emporia, Kansas, to its plant in Streetsville, Ontario. This wheat gluten was subsequently used in the production of pet food in December, 2006 and January, 2007, which is being recalled by Menu Foods.

The new varieties in the United States and Canada have been added to the recall list. The latest recall group is listed below, and a complete list of recalled products, including the new items can be reviewed at <http://www.menufoods.com>.

**Cat Food**

Brand	Look For This Date On The Bottom of Can or Back of Pouch	Variety Description	Can / Pouch	Size	UPC
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**Americas Choice, Preferred Pet**

Jan/2/10	Flaked Tuna 3oz	Can	3oz	54807-59114
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**Your Pet**

Dec/19/09 Jan/24/10	Sliced Beef/Gravy 3oz	Can	3oz	72036-29026
Nov 06 09	Sliced Variety Pack 3oz	Can	3oz	72036-40013

**Pet Pride**

Dec/19/09 Jan/24/10	Sliced Beef/Gravy 3oz	Can	3oz	11110-86264
Nov 06 09 Dec 05 09 Dec 06 09 Jan 23 10 Jan 24 10	Sliced Variety Pack 3oz	Can	3oz	11110-86003

**Laura Lynn**

Jan/2/10	Flaked Tuna 3oz	Can	3oz	86854-02407
Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	86854-02406

**Nutriplan**

Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	41130-06755
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**Price Chopper**

Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	41735-12828
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**Publix**

Jan/2/10	Flaked Tuna 3oz	Can	3oz	41415-08327
Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	41415-08827
Jan/2/10				
Jan/24/10				

**Stop & Shop Companion**

Jan/2/10	Flaked Tuna 3oz	Can	3oz	88267-00286
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**Winn Dixie**

Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	21140-19419
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**Nutro Products**

All Dates	Chicken Cacciatore 3oz	Can	3oz	79105-35205
All Dates	Orleans Seafood Jambalaya 3oz	Can	3oz	79105-35206
All Dates	Beef Ragout 3oz	Can	3oz	79105-35207
All Dates	Alaskan Halibut/Rice 3oz	Can	3oz	79105-35221
All Dates	Kitten Chicken/Lamb 3oz	Can	3oz	79105-35202
All Dates	California Chicken 3oz	Can	3oz	79105-30011
All Dates	Lamb/Turkey Cutlets 3oz	Can	3oz	79105-30014
All Dates	Salmon/Whitefish 3oz	Can	3oz	79105-30013
All Dates	Beef/Egg 3oz	Can	3oz	79105-30015
All Dates	Turkey/Chicken Liver 3oz	Can	3oz	79105-30016
All Dates	Seafood/Tomato/Bisque 3oz	Can	3oz	79105-30017
All Dates	Hunters Stew with Duck 3oz	Can	3oz	79105-30018
All Dates	Hunters Stew with Venison 3oz	Can	3oz	79105-30019

## **EXHIBIT “E”**

**April 17, 2007**

**Menu Foods Refines Recall List**

TORONTO, ONTARIO--(April 17, 2007) - Menu Foods

Attention Business/Financial Editors

Menu Foods has previously recalled wet cat and dog food produced with adulterated wheat gluten supplied by ChemNutra Inc. Over the past several days, Menu Foods continued a detailed analysis of production records at its Emporia, Kansas, plant as part of the US Food and Drug Administration's ongoing investigation of this adulterated wheat gluten. As a result of this work, Menu Foods advises the public:

- One additional item has been added to the recall list and is shown below
- Two additional production dates of eight varieties of pet food have been added to the recall list. These eight varieties of pet food had previously been withdrawn from the market and should already be off the retailer shelves.

An updated list of the recalled products, including this addition, is available at the Menu Foods website at <http://www.menufoods.com>.

**Dog Food**

Brand	Look For This Date On The Bottom of Can or Back of Pouch	Variety Description	Can / Pouch	Size	UPC
Natural Life	Nov/22/09	Vegetarian 13.2oz	Can	13.2oz	12344-07114

Menu Foods  
 Consumers  
 1-866-895-2708  
 Website: [www.menufoods.com](http://www.menufoods.com)

**EXHIBIT “F”**



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## Purina to voluntarily withdraw Mighty Dog® 5.3 ounce pouch products in response to Menu Foods recall

### No other Purina products affected

St. Louis, Missouri, March 16, 2007

Nestlé Purina PetCare Company today announced that as a precautionary measure, it is voluntarily withdrawing its 5.3 ounce Mighty Dog® brand pouch products that were produced by Menu Foods, Inc. from December 3, 2006\*\* through March 14, 2007. This withdrawal is in response to the recall initiated earlier today by Menu Foods, a contract manufacturer that does limited business with Purina as well as with other pet food manufacturers. Only Mighty Dog 5.3 ounce pouch products are being withdrawn by Nestlé Purina, including those pouches contained in multi-packs. Importantly, no Mighty Dog canned products, or any other Purina products are affected by Menu's recall.

While Purina has no indication of any product quality or safety issues specifically related to our Mighty Dog pouch products, Purina is taking this proactive action out of an abundance of caution in response to the Menu Foods recall.

Consumers who have the indicated Mighty Dog 5.3 ounce pouch products should discontinue feeding them to their dogs and can receive the full replacement value of the withdrawn products by calling 1-800-551-7392.

The Mighty Dog pouch products and pouches in multi-pack cartons have code dates of 6312 through 7073, followed by the plant code 1798. This information should be checked on the bottom or back panel of the individual pouches. Specifically, if the code following the "Use By" date begins with four numbers from 6312 to 7073 followed by the plant code 1798, then the pouch is included in this voluntary withdrawal.

Purina regrets any inconvenience and apologizes for any concern caused by this product withdrawal. The Company will continue to take any and all actions necessary to ensure the quality and safety of our products.

\*\* On April 5, 2007, Menu Foods amended its recall to include all cuts and gravy pet food products produced by Menu from November 8, 2006, through March 14, 2007. This amendment does not affect Nestlé Purina's voluntary recall of Mighty Dog brand pouch products, as directions previously given by Nestlé Purina were to remove all Mighty Dog pouch products from retail shelf, regardless of date code.

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## **EXHIBIT “G”**



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## An Update from Nestlé Purina PetCare Company About the Menu Foods Recall

March 23, 2007

We at Nestlé Purina PetCare Company know the reports of pet food recalls and withdrawals over the past week have been very concerning and at times confusing for pet owners, who want to ensure the safety of the food they are feeding their beloved pets.

We want to take this opportunity to reassure you that *Mighty Dog* pouch products are the **ONLY Purina®** brand products affected by Menu Foods' recall. Nestlé Purina stands behind the high-quality of our pet foods, and all **Purina brand cat food products** and all other **Purina brand dog food products**, including *Mighty Dog* canned products, can continue to be fed to your pets with complete confidence.

On Friday, March 16, Nestlé Purina PetCare issued its [press release](#) announcing the voluntary withdrawal of our *Mighty Dog®* brand pouch-packaged products that were produced by Menu Foods from Dec. 3, 2006\*\*, through March 14, 2007. While we had no indication of any product quality or safety issues specifically related to our *Mighty Dog* pouch products at that time, we are proactively withdrawing these products as a precautionary measure, because the well-being of pets and the safety and efficacy of our products are our top priorities.

We also want to apologize for any difficulty you may have had in reaching us by phone this week. While we have dedicated numerous additional phone lines, people and other resources exclusively for this purpose, we understand that the volume of calls still has occasionally exceeded our system capacity.

We have prepared some [Frequently Asked Questions](#) that may be helpful to your understanding of this situation, and we will update these questions as more information becomes available. If you have other questions or concerns, please continue to call our Office of Consumer Affairs directly at 1-800-551-7392.

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## **EXHIBIT “H”**




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## Alpo® Brand Prime Cuts In Gravy Canned Dog Food Voluntary Nationwide Recall

### No Dry Purina Products Involved

St. Louis, Missouri, March 30, 2007

Nestlé Purina PetCare Company today announced it is voluntarily recalling all sizes and varieties of its ALPO® Prime Cuts in Gravy wet dog food with specific date codes. The Company is taking this voluntary action after learning today that wheat gluten containing melamine, a substance not approved for use in food, was provided to Purina by the same company that also supplied Menu Foods. The contamination occurred in a limited production quantity at only one of Purina's 17 pet food manufacturing facilities.

Earlier today the FDA announced the finding of melamine in products related to the March 16 Menu Foods recall, and advised Purina of the source of the contaminated supply. Purina then determined that it had received some quantity from the suspect supplier. The company proactively notified the FDA and immediately began this recall process.

Purina is confident that the contaminated wheat gluten has been isolated to this limited production quantity of ALPO Prime Cuts canned products.

The recalled 13.2-ounce and 22-ounce ALPO Prime Cuts cans and 6-, 8-, 12- and 24-can ALPO Prime Cuts Variety Packs have four-digit code dates of 7037 through 7053, followed by the plant code 1159. Those codes follow a "Best Before Feb. 2009" date.\*\* This information should be checked on the bottom of the can or the top or side of the multi-pack cartons.

Purina's 5.3-ounce *Mighty Dog*® pouch products, manufactured by Menu Foods, were previously withdrawn from the market as a precaution on March 16 as part of the Menu Foods recall. ONLY *Mighty Dog* pouch products and specific date codes of ALPO Prime Cuts canned dog food are being recalled.

Importantly, no Purina brand dry pet foods are affected by the recall - including ALPO Prime Cuts dry. In addition, no other Purina dog food products, no Purina cat food products, Purina treat products or Purina Veterinary Diet products are included in this recall, nor have been impacted by the contaminated wheat gluten supply.

Consumers should immediately stop feeding ALPO Prime Cuts products with the above-listed date codes to their dogs and consult with a veterinarian if they have any health concerns with their pet.

Purina guarantees all of its products, and consumers can receive the full replacement value of the recalled products. Consumers can visit us at [www.purina.com](http://www.purina.com) or call 1-800-218-5898 to receive more information.

Purina is fully cooperating with the FDA and made the decision to voluntarily recall this product in consultation with the FDA.

At Purina, nothing is more important to us than the health and well-being of the pets whose nutrition has been entrusted to us by their owners, and we deeply regret this unfortunate situation. We will continue to take any and all actions necessary to ensure the quality and safety of our products.

\*\* Due to a product name change in early 2007, this voluntary recall also covers one item with the same date code labeled as ALPO® Prime Entrees in Gravy with Chicken, Rotini Pasta & Vegetables.

[Recall questions? View our FAQ page](#)

Press Release - March 28, 2007

[Press Release - March 23, 2007](#)

[Press Release - March 16, 2007](#)

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## **EXHIBIT “I”**

## Del Monte Pet Products Voluntarily Withdraws Specific Product Codes of Pet Treats and Wet Dog Food Products in the United States

### » Recalled Products in Canada [Click Here](#)

April 6, 2007—As a precautionary measure, Del Monte Pet Products is voluntarily recalling select product codes of its pet treat products sold under the *Jerky Treats*®, *Gravy Train*® *Beef Sticks* and *Pounce Meaty Morsels*® brands as well as select dog snack and wet dog food products sold under private label brands. A complete list of affected brands and products is below.

No other Del Monte Pet Products treats, biscuits or wet dog food products are impacted by this recall, and no Del Monte dry cat food, dry dog food, wet cat food or pouched pet foods are subject to this voluntary recall.

The Company took this voluntary recall action immediately after learning from the FDA that wheat gluten supplied to Del Monte Pet Products from a specific manufacturing facility in China contained melamine. Melamine is a substance not approved for use in food. The FDA made this finding as part of its ongoing investigation into the recent pet food recall. Del Monte Pet Products has proactively engaged and fully cooperated with the FDA since the start of its investigation.

Del Monte Pet Products has not used wheat gluten from this manufacturing facility in China in any other pet products except those described below. The adulterated ingredients were used in a limited production quantity over the last three months for those items identified by specific product codes below. This recall removes all Del Monte Pet Products with wheat gluten procured from this manufacturing facility from retail shelves. Del Monte did not use product from this supplier prior to the recall period in question and has since discontinued sourcing product from this manufacturing facility.

Consumers should discontinue feeding the products with the Product Codes detailed below to their pets.

Del Monte Pet Products are 100% guaranteed and all voluntarily recalled products will be refunded.

Del Monte Pet Products customers can contact our Consumer Hotline at (800) 949-3799 for further information about the recall and for instructions on obtaining a product refund. Consumers can also click on the "**Contact Us**" button and submit the Contact Us form, including UPC number, product name, Best By Date, and manufacturing code information (located under the Best By date). Consumers may also write to us at:

Del Monte  
P.O. Box 80  
Pittsburgh PA 15230-0080

### Following is a COMPLETE and UPDATED list of Del Monte Pet Products and Best Buy Dates that have been voluntarily recalled in the United States.

#### BRANDED

#### Jerky Treats Beef Flavor Dog Snacks\*

\* *Jerky Treats No Wheat Beef* (production code TP7B06) is not part of the recall

#### Production Code/Best By Date

Code:	TP7B06	TP7B07	TP7B08	TP7B09	TP7B10
Best By:	Aug 06 08	Aug 07 08	Aug 08 08	Aug 09 08	Aug 10 08

Code:	TP7B15	TP7B16	TP7C05	TP7C06
Best By:	Aug 15 08	Aug 16 08	Sep 02 08	Sep 03 08

#### Gravy Train Beef Sticks Dog Snacks

Code:	TP7B19	TP7B20
Best By:	Aug 19 08	Aug 20 08

#### Pounce Meaty Morsels Moist Chicken Flavor Cat Treats

Code:	TP7C12
Best By:	Sep 09 08

**PRIVATE LABEL****Production Code/Best By Date****Ol' Roy Beef Flavor Jerky Strips Dog Treats**

Code: TP7B06 TP7B07 TP7B08 TP7C05 TP7C06  
 Best By: Aug 06 08 Aug 07 08 Aug 08 08 Sep 02 08 Sep 03 08

Code: TP7C07 TP7C08  
 Best By: Sep 04 08 Sep 05 08

**Ol' Roy Beef Flavor Snack Sticks Dog Treats**

Code: TP7B19 TP7B20 TP7B21 TP7C08 TP7C09  
 Best By: Aug 19 08 Aug 20 08 Aug 21 08 Sep 05 08 Sep 06 08

Code: TP7C10  
 Best By: Sep 07 08

**Ol' Roy with Beef Hearty Cuts in Gravy Dog Food**

Code: BC6M21  
 Best By: Dec 21 09

**Ol' Roy with Beef Hearty Strips in Gravy Dog Food**

Code: BC7A19  
 Best By: Jan 19 10

**Ol' Roy Country Stew Hearty Cuts in Gravy Dog Food**

Code: BC6M15  
 Best By: Dec 15 09

**Dollar General Beef Flavored Jerky Strips Dog Treats**

Code: TP7C05 TP7C06 TP7C07 TP7C08  
 Best By: Sep 02 08 Sep 03 08 Sep 04 08 Sep 05 08

**Dollar General Beef Flavored Beef Sticks Dog Treats**

Code: TP7B20 TP7B21 TP7C08 TP7C09 TP7C10  
 Best By: Aug 20 08 Aug 21 08 Sep 05 08 Sep 06 08 Sep 07 08

**Happy Tails Beef Flavor Jerky Strips**

Code: TP7B08 TP7B09  
 Best By: Aug 08 08 Aug 09 08

**Happy Tails Meaty Cuts with Beef in Gravy Dog Food**

Code: BC7A29  
 Best By: Jan 29 10

**Happy Tails Beef Flavor Beef Sticks**

Code: TP7C08 TP7C09  
 Best By: Sep 05 08 Sep 06 08

**Recalled Products in Canada****DLM Foods Canada Corp. Voluntarily Withdraws *Jerky Treats* Dog Snacks Beef Flavour with the Best Before Date of 16.08.08**

TORONTO, April 2, 2007 - As a precautionary measure, DLM Foods Canada Corp. is voluntarily withdrawing *Jerky Treats*® Dog Treats Beef Flavour with the best before date of 16.08.08. Consumers should discontinue feeding this product and return affected products to their store for a refund. No other DLM Foods Canada Corp. products are subject to this voluntary withdrawal.

The Company took this voluntary withdrawal action after learning from the U.S. Food & Drug Administration (FDA) that wheat gluten supplied to DLM Foods Canada Corp. from a specific manufacturing facility in China contained melamine. Melamine is a substance not approved for use in food in the United States. The FDA made this finding as part of its ongoing investigation into the recent pet food recall in the United States. DLM Foods Canada Corp. conferred with the Canadian Food Inspection Agency today to coordinate the details of this voluntary withdrawal as it applied to the Canadian market.

The adulteration occurred in a limited production quantity indicated by the one best before date of *Jerky Treats* Dog Treats Beef Flavour product line mentioned above. This withdrawal removes all DLM Foods Canada Corp. pet products

with wheat gluten procured from this manufacturing facility from retail shelves.

No other DLM Foods Canada Corp. products are subject to this voluntary withdrawal. The affected products comprise less than one-tenth of one percent of DLM Foods Canada Corp. annual pet food and pet treat production.

DLM Foods Canada Corp. has not used wheat gluten from this manufacturing facility in China in any other pet products except those described above.

DLM Foods Canada Corp. products are 100% guaranteed and all returned product will be refunded. For further information about DLM Foods Canada Corp. consumers can contact our Consumer Affairs at 1-866-657-6929.

As part of the pet community, we value the health and well-being of pets, and we deeply regret this situation. We will continue to take any and all actions necessary to ensure the quality and safety of our products.

## **EXHIBIT “J”**

**U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE**

				12-MONTH PERIOD ENDING SEPTEMBER 30								
CALIFORNIA CENTRAL				2006	2005	2004	2003	2002	2001	Numerical Standing		
OVERALL CASELOAD STATISTICS	Filings*			12,909	14,630	16,938	14,720	15,440	15,342	U.S.	Circuit	
	Terminations			13,680	16,173	15,269	15,800	16,936	16,906			
	Pending			12,401	13,180	14,720	13,129	14,525	16,142			
	% Change in Total Filings	Over Last Year			-11.8						83	13
		Over Earlier Years				-23.8	-12.3	-16.4	-15.9		81	13
Number of Judgeships				28	28	28	28	27	27			
Vacant Judgeship Months**				53.9	24.8	2.3	23.6	63.9	57.3			
ACTIONS PER JUDGESHIP	FILINGS	Total	461	523	605	526	572	568	36	7		
		Civil	397	450	515	451	490	521	18	4		
		Criminal Felony	36	45	60	49	58	47	84	14		
		Supervised Release Hearings**	28	28	30	26	24	-	30	11		
	Pending Cases			443	471	526	469	538	598	26	7	
	Weighted Filings**			518	565	651	590	584	557	24	6	
	Terminations			489	578	545	564	627	626	32	7	
	Trials Completed			12	13	12	14	12	14	79	11	
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	12.4	10.3	8.2	9.4	8.6	9.1	82	14		
		Civil**	7.2	7.4	7.3	7.5	7.9	7.1	10	2		
	From Filing to Trial** (Civil Only)			21.3	20.5	17.8	21.2	20.0	21.0	29	4	
OTHER	Civil Cases Over 3 Years Old**	Number	1,240	809	624	609	650	541				
		Percentage	11.6	7.2	5.0	5.4	5.2	3.8	79	14		
	Average Number of Felony Defendants Filed Per Case			1.6	1.5	1.4	1.4	1.4	1.5			
	Jurors	Avg. Present for Jury Selection	64.08	47.33	49.01	49.49	54.63	61.75				
		Percent Not Selected or Challenged	55.7	48.3	49.4	51.6	55.5	58.8				

2006 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	11104	994	211	2833	274	58	754	1330	497	1425	1188	80	1460
Criminal*	999	3	151	234	88	228	54	46	43	43	25	35	49

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."



**EXHIBIT “K”**

# U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

						12-MONTH PERIOD ENDING SEPTEMBER 30								
NEW JERSEY						2006	2005	2004	2003	2002	2001	Numerical Standing		
OVERALL CASELOAD STATISTICS	Filings*					7,275	7,539	7,567	7,270	7,555	6,972	U.S.	Circuit	
	Terminations					7,480	7,605	7,373	6,998	7,125	7,057			
	Pending					6,855	6,987	6,986	6,765	6,538	6,101			
	% Change in Total Filings	Over Last Year					-3.5					43	3	
		Over Earlier Years					-3.9	.1	-3.7	4.3	45	4		
Number of Judgeships						17	17	17	17	17	17			
Vacant Judgeship Months**						32.3	27.8	12.0	11.0	47.8	7.5			
ACTIONS PER JUDGESHIP	FILINGS	Total	428	444	446	428	445	410	46	3				
		Civil	369	387	390	370	387	369	29	3				
		Criminal Felony	51	48	46	48	49	41	70	3				
		Supervised Release Hearings**	8	9	10	10	9	-	85	3				
	Pending Cases					403	411	411	398	385	359	38	4	
	Weighted Filings**					481	493	500	486	482	463	33	2	
	Terminations					440	447	434	412	419	415	48	3	
	Trials Completed					11	10	10	10	12	11	86	6	
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	12.1	10.0	9.8	9.0	9.4	8.0	81	5				
		Civil**	8.2	7.3	7.6	7.9	8.4	7.5	21	3				
	From Filing to Trial** (Civil Only)					33.0	36.7	33.4	33.8	30.0	33.0	68	4	
OTHER	Civil Cases Over 3 Years Old**	Number	306	346	252	236	231	179						
		Percentage	5.2	5.7	4.2	4.0	4.0	3.3	41	3				
	Average Number of Felony Defendants Filed Per Case					1.2	1.3	1.2	1.2	1.2	1.2			
	Jurors	Avg. Present for Jury Selection					88.98	75.41	40.79	51.72	41.77	51.55		
		Percent Not Selected or Challenged					39.2	38.3	24.1	40.3	37.7	38.9		

## 2006 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	6274	240	343	904	82	26	845	1031	721	377	869	39	797
Criminal*	862	3	268	48	124	176	53	39	19	22	27	28	55

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while Filings "By Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

DECLARATION OF SERVICE BY MAIL

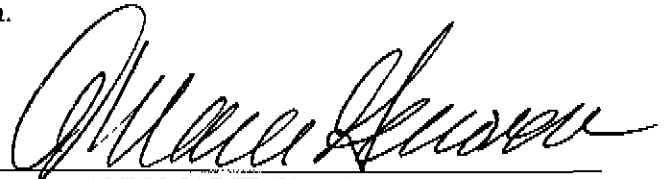
I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, employed in the County of Los Angeles, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is One California Plaza, 300 South Grand Avenue, Suite 3900, Los Angeles, California 90071-3149.

2. That on April 27, 2007, declarant served the PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR TRANSFER OF ACTIONS TO THE CENTRAL DISTRICT OF CALIFORNIA AND FOR CONSOLIDATED OR COORDINATED PRETRIAL PROCEEDINGS PURSUANT TO 28 U.S.C. §1407 by depositing a true copy thereof in a United States mailbox at Los Angeles, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 27th day of April, 2007, at Los Angeles, California.

A handwritten signature in cursive script, appearing to read "Ann Marie Genovese", is written over a horizontal line.

ANN MARIE GENOVESE

**MENU FOODS**  
**MDL Docket No. 1850**  
**Service List**

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*Sims v. Menu Foods*  
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*07-cv-00469-RNC*  
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*Donnelly v. Menu Foods*  
*1:07-cv-20955-JAL*  
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*Klimes v. Menu Foods*  
*1:07-cv-00160-MHW*  
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*Majerczyk v. Menu Foods*  
*1:07-cv-01543*  
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*Rodrigues v. Menu Foods*  
*1:07-cv-10745-EFH*  
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*Brazilian v. Menu Foods Income Fund*  
*2:07-cv-00054-GZS*  
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*Streczyn v. Menu Foods*  
*3:07-cv-00159-LRH-VPC*  
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*Richard & Kohler v. Menu Foods*  
*1:07-cv-01457-NLH-AMD*  
*D. New Jersey*

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*Workman v. Menu Foods*  
*1:07-cv-01338-NLH-AMD*  
*D. New Jersey*

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*Thomson v. Menu Foods*  
*1:07-cv-01360-PGS-RJH*  
*D. New Jersey*

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*Tinker v. Menu Foods*  
*1:07-cv-01468-NLH-AMD*  
*D. New Jersey*

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*Richard v. Menu Foods*  
*1:07-cv-01457-NLH-AMD*  
*D. New Jersey*

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*Wilson v. Menu Foods*  
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*Bonier v. Menu Foods*  
*1:07-cv-01477-NLH-AMD*  
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*Hidalgo v. Menu Foods*  
*1:07-cv-01488-NLH-AMD*  
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*Nunez v. Menu Foods*  
*1:07-cv-1490-NLH*  
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*Gagliardi v. Menu Foods*  
*1:07-cv-01522-NLH-AMD*  
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*Golding v. Menu Foods*  
*1:07-cv-01521-NLH-AMD*  
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*Turturro v. Menu Foods*  
*1:07-cv-01523-NLH-AMD*  
*D. New Jersey*

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*Schneider v. Menu Foods*  
*1:07-cv-01533-NLH-AMD*  
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*Berndl v. Menu Foods*  
*1:07-cv-01553-NLH-AMD*  
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*Pittsonberger v. Menu Foods*  
*07-cv-01561-NLH-AMD*  
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*Carter v. Menu Foods*  
*1:07-cv-01562-NLH-AMD*  
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*Bullock v. Menu Foods*  
*1:07-cv-01579-NLH-AMD*  
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*Christina Johnson v. Menu Foods*  
*1:07-cv-01610-NLH-AMD*  
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*Conner v. Menu Foods*  
*1:07-cv-01623-NLH-AMD*  
*D. New Jersey*

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*Long v. Menu Foods*  
*1:07-01624-NLH-AMD*  
*D. New Jersey*

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*Conti v. Menu Foods*  
*1:07-cv-01638-NLH-AMD*  
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*Freeman v. Menu Foods*  
*1:07-cv-01646-NLH-AMD*  
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*Pirches v. Menu Foods*  
*1:07-cv-01685-NLH-AMD*  
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*Diedrich v. Menu Foods*  
*1:07-cv-01700-NLH-AMD*  
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*Sokolwski v. Menu Foods*  
*1:07-cv-01709-NLH-AMD*  
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*McCullough v. Menu Foods*  
*1:07-cv-01710-NLH-AMD*  
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*Colquitt v. Menu Foods*  
*1:07-cv-01738-NLH-AMD*  
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*Debarthy v. Menu Foods*  
*1:07-cv-01739-NLH-AMD*  
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*Byers v. Menu Foods*  
*1:07-cv-01747-NLH-AMD*  
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*Carestio v. Menu Foods*  
*1:07-cv-01762-NLH-AMD*  
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*Boehm v. Menu Foods*  
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*Brown v. Menu Foods*  
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*Rozman v. Menu Foods Midwest Corp.*  
*0:07-cv-01808-ADM-AJB*  
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*Holt v. Menu Foods*  
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*Light v. Menu Foods*  
*3:07-cv-00098*  
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*Heller v. Menu Foods*  
*2:07-cv-00453-JCC*  
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*Suggett v. Menu Foods*  
 2:07-cv-00457-RSM  
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*Tompkins v. Menu Foods*  
 1:07-cv-00736-JLK  
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<u>COURTS</u>	
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